

Application No.: 09/271,584

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REMARKS

Amendments to the specification have been proposed. Support for the amendment may be found on Table 4 in the specification and on page 34, lines 5 through 14 of the specification, which incorporates U.S. Patent No. 5,750,848 (the "'848" patent) by reference. The '848 patent was incorporated by reference for the molecular biology techniques and assays contained within. Specifically, the hybridization and wash conditions from the '848 patent are brought from column 21, lines 26-36 of the '848 patent. This section discloses Southern hybridization conditions used to identify related nucleic acid sequences. The paragraph indicates that the final washes are performed for fifteen minutes in 0.5-1.0x SSC, 0.1% SDS at 55° C. (See lines 31-33, column 21) The next sentence of the paragraph in the '848 patent further modifies the final wash conditions such that the SSC concentration is reduced to 0.1X SSC and the temperature is 60° C or 65° C. The two final wash conditions disclosed in the last sentence of the paragraph in the '848 patent incorporated by reference are clearly within the range specified in Table 4 as high stringency conditions. Thus, even though the '848 patent does not specifically refer to the conditions as high stringency, they fall in the range defined by Applicants' specification. Thus, there is support for the recitation "under conditions that include at least one wash in one wash in 0.1xSSC, 0.1% SDS, at 65° C for fifteen minutes" in the specification as Applicants have proposed amending the specification by incorporation by reference. Note: for clarity, the conditions in the final wash in the paragraph to be added to the specification has been changed from "0.5-1.0x SSC, 0.1% SDS, at 55° C" to "0.1X SSC, 0.1% SDS, at 60° C, and preferably at 65° C" to avoid confusion since the added paragraph is directed to high stringency binding conditions.

In addition, claims 1, 18, and 53 have been amended to include amino acids that encode proteins with 95% identity to SEQ ID NO:2. Support for this amendment may be found on page 26, lines 10-12 of the specification.

Advisory Action

Applicants thank the Examiner for indicating that the reply submitted on July 21, 2003

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would have overcome the § 112, first paragraph, enablement and written description, § 112, second paragraph, § 102 and § 103 rejections. Applicants have resubmitted the amendments from the previous reply with a modified specification amendment that should avoid the new matter rejection.

New Considerations

Applicants have amended pending claims 1, 5, 18, 31, 32, and 53 as suggested by the Examiner in the August 8, 2003 Advisory Action.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 529642000200.

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Respectfully submitted,

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